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**TITLE 326 AIR POLLUTION CONTROL DIVISION**

**Proposed Rule**  
LSA Document #16-209

**DIGEST**

Adds [326 IAC 24-5](#), [326 IAC 24-6](#), and [326 IAC 24-7](#) and amends [326 IAC 26-1-5](#) concerning the federal Cross-State Air Pollution Rule (CSAPR) and the CSAPR Update Rule for the 2008 Ozone National Ambient Air Quality Standards. Repeals [326 IAC 24-1](#), [326 IAC 24-2](#), and [326 IAC 24-3](#). Effective 30 days after filing with the Publisher.

**HISTORY**

First Notice of Comment Period: June 1, 2016, Indiana Register (DIN: [20160601-IR-326160209FNA](#)).

Second Notice of Comment Period: December 28, 2016, Indiana Register (DIN: [20161228-IR-326160209SNA](#)).

Notice of First Hearing: December 28, 2016, Indiana Register (DIN: [20161228-IR-326160209PHA](#)).

Continuation of Second Notice: January 25, 2017, Indiana Register (DIN: [20170125-IR-326160209SCA](#)).

Change in Notice of Public Hearing: March 8, 2017, Indiana Register (DIN: [20170308-IR-326160209CHA](#)).

Date of First Hearing: April 12, 2017.

**PUBLIC COMMENTS UNDER [IC 13-14-9-4.5](#)**

[IC 13-14-9-4.5](#) states that a board may not adopt a rule under [IC 13-14-9](#) that is substantively different from the draft rule published under [IC 13-14-9-4](#), until the board has conducted a third comment period that is at least 21 days long.

**REQUEST FOR PUBLIC COMMENTS**

This proposed (preliminarily adopted) rule is substantively different from the draft rule published on December 28, 2016, at DIN: [20161228-IR-326160209SNA](#). The Indiana Department of Environmental Management (IDEM) is requesting comment on the entire proposed (preliminarily adopted) rule.

The proposed rule contains numerous changes from the draft rule that make the proposed rule so substantively different from the draft rule that public comment on the entire proposed rule is advisable. This notice requests the submission of comments on the entire proposed rule, including suggestions for specific amendments. These comments and the department's responses thereto will be presented to the board for its consideration at final adoption under [IC 13-14-9-6](#). Comments may be submitted in one of the following ways:

(1) By mail or common carrier to the following address:

LSA Document #16-209 CSAPR adoption and repeal of CAIR

Lauren Aguilar

Rules Development Branch

Office of Legal Counsel

Indiana Department of Environmental Management

Indiana Government Center North

100 North Senate Avenue

Indianapolis, IN 46204-2251

(2) By facsimile to (317) 233-5970. Please confirm the timely receipt of your faxed comments by calling the Rules Development Branch at (317) 233-8903.

(3) By electronic mail to [laguilar@idem.in.gov](mailto:laguilar@idem.in.gov). To confirm timely delivery of submitted comments, please request a document receipt when sending the electronic mail. **PLEASE NOTE: Electronic mail comments will NOT be considered part of the official written comment period unless they are sent to the address indicated in this notice.**

(4) Hand delivered to the receptionist on duty at the thirteenth floor reception desk, Office of Legal Counsel, Indiana Government Center North, 100 North Senate Avenue, Indianapolis, Indiana.

Regardless of the delivery method used, to properly identify each comment with the rulemaking action it is intended to address, each comment document must clearly specify the LSA document number of the rulemaking.

**COMMENT PERIOD DEADLINE**

All comments must be postmarked, faxed, or time stamped not later than May 25, 2017. Hand-delivered comments must be delivered to the appropriate office by 4:45 p.m. on the above-listed deadline date.

Additional information regarding this action may be obtained from Lauren Aguilar, Rules Development Branch, Office of Legal Counsel, (317) 234-8559 or (800) 451-6027 (in Indiana).

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**SUMMARY/RESPONSE TO COMMENTS FROM THE SECOND COMMENT PERIOD**

IDEM requested public comment from December 28, 2016, through February 26, 2017, on IDEM's draft rule language. IDEM received comments from the following parties:

Stephen Holcomb, NIPSCO/NiSource (NIPSCO)

Tim Rushenberg, Indiana Utility Group (IUG)

Following is a summary of the comments received and IDEM's responses thereto:

*Comment:* IUG recognizes IDEM's intent to provide a mechanism to implement the Cross State Air Pollution Rule (CSAPR) with more flexibility for Indiana sources. The IUG appreciates IDEM's efforts to avoid increasing the complexity of the rules. IUG also appreciates IDEM's extension of the comment period allowing for a complete and thorough review of the proposed rule. (IUG)

*Response:* IDEM appreciates IUG's support, and believes the draft rule is customized to the needs of Indiana and does not increase the complexity of addressing the interstate transport of emissions through CSAPR.

*Comment:* IDEM proposes to adopt the federal CSAPR and CSAPR Update Rule as part of this rulemaking. The CSAPR Update Rule is the subject of litigation (*Wisconsin v. EPA*, NO 16-14-6 (D.C. Cir.)), including a petition for judicial review by IUG on December 21, 2016. The resolution of this litigation could result in modifications to the rule, having a significant impact on affected sources. It is also possible that the CSAPR Update Rule may be revoked through congressional action. (See Senate Joint resolution 21, otherwise known as the Congressional Review Act.). As such, IDEM should provide a mechanism in its regulations to ensure timely revision of the state implementation plan (SIP). IUG supports the approach to reference the Code of Federal Register requirements rather than adopt specific language in the Indiana rule because that will avoid a situation where utilities might be subject to conflicting regulation in the event that there are changes to the federal rule, due to court actions, U.S. EPA reconsideration, or future federal rulemaking on interstate transport requirements.

In addition to the petition for judicial review, the IUG will be filing a petition for administrative reconsideration with the U.S. EPA to review the Indiana ozone season NO<sub>x</sub> budget under the CSAPR Update Rule. The IUG has identified a number of concerns with methodology, assumptions, and technical data U.S. EPA used in setting the NO<sub>x</sub> budget for Indiana. In particular, Indiana lost over 5,000 tons of allocations due to a change in the calculation formula where U.S. EPA adopted a "relative reduction" calculation in the final rule. U.S. EPA also used a selective catalytic reduction (SCR) emission rate of 0.070 lb/MMBtu for several facilities (Cayuga, Gibson 5, and Petersburg 3) where it should have used either the current emissions rate (representing base case or historic emissions) or a rate of 0.10 lb/MMBtu (for future controlled case). Any changes to the state budget as a result of a U.S. EPA reconsideration should not impact the proposed procedures for allocating the state budget to the individual units in the state rule. The IUG would appreciate an opportunity to discuss this issue further with IDEM to discuss our specific concerns with EPA's NO<sub>x</sub> budget. (IUG)

*Response:* IDEM understands IUG's concerns with potential future changes to the CSAPR Update rule due to the litigation and challenges described. However, IDEM cannot speculate on future changes to laws and regulations and must proceed under current law. IDEM plans to seek SIP approval for all three (3) trading programs including the NO<sub>x</sub> Ozone season and in order to do so, IDEM must have a rule that addresses the CSAPR Update rule as finalized by U.S. EPA on September 7, 2016 in order to address the state's transport obligations. Should there be litigation that results in need for a change in the rule, IDEM will address those issues as they occur, either before final adoption or in a subsequent rulemaking. The draft rule does not implement the trading program until 2021 giving IDEM time to address potential changes to the budget. There are statutory safeguards that allow for enforcement discretion should an invalidation occur. IDEM welcomes information from IUG or other interested parties concerning the methodology, assumptions, and technical data U.S. EPA used in setting the NO<sub>x</sub> budget for Indiana. The current CSAPR Update rule budget still falls short of addressing the state's contribution to pollution in downwind states for the 2008 ozone standard and any relaxation of the budget would make it even harder for Indiana to meet its transport obligations.

*Comment:* IUG supports maintaining two rounds of allocations from the new unit set-aside to ensure that new sources are allocated allowances to cover emissions in their first year of operation. (IUG)

*Response:* IDEM appreciates this feedback, and has drafted a rule that has two rounds of allocations from the new unit set-aside.

*Comment:* IUG recommends an eight-year look back period for heat inputs as previously used in the Indiana Clean Air Interstate Rule (CAIR), rather than a five-year period as proposed. A longer period will more accurately reflect normal operations, and it will lessen the impact of irregular outages (e.g. pollution control project installations, forced outages, etc.) and year-to-year variability in coal-fired electric generation. An eight-year period would align with the proposed maximum historic emissions cap that also uses the most recent eight years of available data.

*Comment:* NIPSCO supports an eight-year heat input look back period instead of a five-year look back period. A longer averaging period will more accurately reflect normal operations, and it will lessen the impact of irregular outages (e.g. pollution control project installations, forced outages, etc.) and year-to-year variability in coal-fired electric generation. For example, when NIPSCO installed and commissioned flue gas desulfurization and a fabric filter baghouse on Michigan City Generating Station Unit 12, the station experienced several

extended outages. Unit 12's heat input averaged 23.7 million MMBtu annually from 2012-2014 but decreased to 17.5 million MMBtu annually from 2015-2016 during the installation and commissioning of the pollution control equipment. The station should not be penalized with a decreased allocation for the installation of such equipment. An eight-year look back during the years 2012-2019 will more accurately reflect normal operation of the Michigan City Generating Station when compared with the 2015-2019 time period. (NIPSCO)

*Response:* IDEM appreciates the feedback on the length of the look back period. Although the current U.S.EPA CSAPR federal implementation plan (FIP) uses a five (5) year look back period for heat input, IDEM believes that an eight (8) year look back period would not increase costs, and is just as protective of human health and the environment. Therefore, IDEM has revised the draft rule language for preliminary adoption to an eight (8) year look back period as suggested by interested parties.

## **SUMMARY/RESPONSE TO COMMENTS RECEIVED AT THE FIRST PUBLIC HEARING**

On April 12, 2017, the Environmental Rules Board (board) conducted the first public hearing/board meeting concerning the development of amendments to [326 IAC 24](#) and [326 IAC 26-1-5](#). No comments were made at the first hearing.

[326 IAC 24-1](#); [326 IAC 24-2](#); [326 IAC 24-3](#); [326 IAC 24-5](#); [326 IAC 24-6](#); [326 IAC 24-7](#); [326 IAC 26-1-5](#)

SECTION 1. [326 IAC 24-5](#) IS ADDED TO READ AS FOLLOWS:

## **ARTICLE 24. CROSS-STATE AIR POLLUTION RULE (CSAPR) PROGRAMS**

### **Rule 5. Nitrogen Oxides (NO<sub>x</sub>) Annual Trading Program**

#### **[326 IAC 24-5-1](#) Applicability and incorporation by reference**

Authority: [IC 13-14-8](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#)

Affected: [IC 13-11-2](#); [IC 13-15](#); [IC 13-17](#)

Sec. 1. (a) This rule applies to CSAPR NO<sub>x</sub> annual units and CSAPR NO<sub>x</sub> annual sources as specified in 40 CFR 97.404\*, as amended by 81 FR 74605, that are located in Indiana.<sup>x</sup>

(b) The definitions in [IC 13-11-2](#), [326 IAC 1](#), and 40 CFR 97.402\*, as amended by 84 FR 74604, apply throughout this rule. For purposes of this rule, the definition for a term provided in 40 CFR 97.402 controls in any conflict between [326 IAC 1](#) and 40 CFR 97.402.

(c) The following federal provisions are incorporated by reference:

(1) The CSAPR NO<sub>x</sub> Annual Trading Program at:

- (A) 40 CFR 97.402\* through 40 CFR 97.408\*, as amended by 81 FR 74604;
- (B) 40 CFR 97.411(c)(1)\* through 40 CFR 97.411(c)(4)\*, as amended by 81 FR 74606;
- (C) 40 CFR 97.411(c)(5)(i)\* and 40 CFR 97.411(c)(5)(ii)\*, as amended by 81 FR 74606;
- (D) 40 CFR 97.413\* through 40 CFR 97.420\*, as amended by 81 FR 74606;
- (E) 40 CFR 97.421(e)\* through 40 CFR 97.421(g)\*, as amended by 81 FR 74606;
- (F) 40 CFR 97.421(i)\*, as amended by 81 FR 74606;
- (G) 40 CFR 97.421(k)\* and 40 CFR 97.421(l)\*, as amended by 81 FR 74606; and
- (H) 40 CFR 97.422\* through 40 CFR 97.435\*, as amended by 81 FR 74607.

(2) The Indiana NO<sub>x</sub> annual variability limit at 40 CFR 97.410(b)(4)\*, as amended by 81 FR 74606.

(d) The following are substitutions to 40 CFR as incorporated into this rule:

(1) As it appears in 40 CFR 97.402 and 40 CFR 97.406(c)(2)(iii), substitute the following:

- (A) Delete "§ 97.410(a)" and insert "40 CFR 97.410(a)(4)(iv)".
- (B) Delete "§ 97.410(b)" and insert "40 CFR 97.410(b)(4)".

(2) As it appears in 40 CFR 97.402, delete "§ § 97.411 and 97.412" and insert "[326 IAC 24-5-5](#), [326 IAC 24-5-6](#), and [326 IAC 24-5-7](#)".

(3) As it appears in 40 CFR 97.406(b)(2), delete "§ 97.411(a)(2) and (b) and 97.412" and insert "[326 IAC 24-5-5](#), [326 IAC 24-5-6](#), and [326 IAC 24-5-7](#)".

<sup>x</sup>These documents are incorporated by reference. Copies may be obtained from the Government

Publishing Office, [www.gpo.gov](http://www.gpo.gov), or are available for review at the Indiana Department of Environmental Management, Office of Legal Counsel, Indiana Government Center North, 100 North Senate Avenue, Thirteenth Floor, Indianapolis, IN 46204.

(Air Pollution Control Division; [326 IAC 24-5-1](#))

### **[326 IAC 24-5-2](#) CSAPR NO<sub>x</sub> annual trading budget**

Authority: [IC 13-14-8](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#)

Affected: [IC 13-15](#); [IC 13-17](#)

Sec. 2. (a) The total Indiana CSAPR NO<sub>x</sub> annual trading budget, in 40 CFR 97.410(a)(4)(iv)\*, as amended by 81 FR 74606, is available for each control period starting in 2021 and thereafter. This does not include any tons in a variability limit.

(b) For each control period in 2021 and thereafter, a new unit set-aside is established for Indiana equal to the allowances at 40 CFR 97.410(a)(4)(v)\*, as amended by 81 FR 74606 and any additional allowances at 40 CFR 97.411(c)(5)\*, as amended by 81 FR 74606.

(c) The existing unit budget is the difference between the total trading budget at 40 CFR 97.410(a)(4)(iv)\*, as amended by 81 FR 74606, and the new unit set-aside at 40 CFR 97.410(a)(4)(v)\*, as amended by 81 FR 74606.

\*These documents are incorporated by reference. Copies may be obtained from the Government Publishing Office, [www.gpo.gov](http://www.gpo.gov), or are available for review at the Indiana Department of Environmental Management, Office of Legal Counsel, Indiana Government Center North, 100 North Senate Avenue, Thirteenth Floor, Indianapolis, IN 46204.

(Air Pollution Control Division; [326 IAC 24-5-2](#))

### **[326 IAC 24-5-3](#) CSAPR NO<sub>x</sub> annual allocation timing**

Authority: [IC 13-14-8](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#)

Affected: [IC 13-15](#); [IC 13-17](#)

Sec. 3. The department shall allocate CSAPR NO<sub>x</sub> annual allowances according to the following schedule:

(1) By June 1, 2018, the department shall submit to the United States Protection Agency (U.S. EPA) the existing unit allowance allocations, in accordance with section 5 of this rule, for control periods in 2021 and 2022.

(2) By June 1, 2019, and June 1 every two (2) years thereafter, the department shall submit to U.S. EPA the existing unit allowance allocations in accordance with section 5 of this rule, for control periods four (4) and five (5) years after the applicable deadline for submission under this subdivision.

(3) By July 1, 2021, and July 1 of each year thereafter, the department shall submit to U.S. EPA the new unit set-aside allowance allocations, in accordance with section 6 of this rule, for the control period in the year of the applicable deadline for submission under this subdivision.

(4) By February 6, 2022, and February 6 of each year thereafter, the department shall submit to U.S. EPA the new unit set-aside allowance allocations in accordance with section 7 of this rule, for the control period in the previous year of the applicable deadline for submission under this subdivision.

(Air Pollution Control Division; [326 IAC 24-5-3](#))

### **[326 IAC 24-5-4](#) Baseline heat input and historic emissions**

Authority: [IC 13-14-8](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#)

Affected: [IC 13-15](#); [IC 13-17](#)

Sec. 4. (a) For purposes of this rule, an existing unit is any unit with a baseline heat input, in million British thermal units (MMBtu). Baseline heat input is determined as follows:

(1) If a unit commenced commercial operation prior to January 1, 2016, then the following applies:

(A) For an allowance allocation for control periods in 2021 and 2022 the baseline heat input is the average of the three (3) highest control period heat inputs in 2008 through 2015.

(B) For an allowance allocation for control periods in 2023 and 2024 and every two (2) control periods thereafter, the baseline heat input is the average of the three (3) highest, non-zero control period heat inputs in the eight (8) years before the allocation is calculated.

(C) If a unit has only two (2) non-zero heat inputs during the eight (8) years before the allocation is calculated, the baseline heat input is the average of those two (2) non-zero control period heat inputs.

(D) If a unit has only one (1) non-zero heat input during the eight (8) years before the allocation is calculated, the baseline heat input is that one (1) non-zero control period heat input.

(2) If a unit commenced commercial operation on or after January 1, 2016, and operates each control period during a period of three (3) or more consecutive calendar years, for an allowance allocation under section 3(2) of this rule, the baseline heat input is the average of the three (3) highest, non-zero control period heat input values for the years before the calculation of the allocation, not to exceed eight (8) control periods.

(b) For purposes of this rule, new units either:

(1) commenced operation on or after January 1, 2016, and do not have a baseline heat input; or

(2) did not receive allowances as determined under section 5(c) of this rule, and operated during the control period immediately preceding the year of allocation.

(c) The maximum historic emission cap is the maximum NO<sub>x</sub> emissions, in tons, that occurred during any control period of the historic emissions period. The historic emissions period is an eight (8) year history for each unit ending with the most recent year of the eight (8) years used for the determination of the heat input under subsection (a).

(d) A unit's control period heat input and a unit's total tons of NO<sub>x</sub> emissions during a control period under this section must be determined in accordance with 40 CFR 75\*.

\*This document is incorporated by reference. Copies may be obtained from the Government Publishing Office, [www.gpo.gov](http://www.gpo.gov), or are available for review at the Indiana Department of Environmental Management, Office of Legal Counsel, Indiana Government Center North, 100 North Senate Avenue, Thirteenth Floor, Indianapolis, IN 46204.

(Air Pollution Control Division; [326 IAC 24-5-4](#))

#### [326 IAC 24-5-5](#) Existing unit allocations and adjustments

Authority: [IC 13-14-8](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#)

Affected: [IC 13-15](#); [IC 13-17](#)

Sec. 5. (a) For each control period in 2021 and thereafter, the department shall allocate to all existing units that have a baseline heat input the total amount of allowances as listed in section 2(c) of this rule in accordance with this section.

(b) The initial allocation for an existing unit is the existing unit budget multiplied by the ratio of the baseline heat input of the unit to the total amount of baseline heat inputs of all CSAPR NO<sub>x</sub> annual units, rounded to the nearest whole allowance.

(c) A unit receives no allowances if the unit does not operate during the control period in two (2) consecutive years as follows:

(1) Allowances must not be allocated to the unit for the control period in the fifth year after the first year of not operating and in each year after the fifth year.

(2) If the unit resumes operation, the department must allocate allowances to the unit in accordance with the standards for new unit allocations until the unit has a baseline heat input.

(d) The allocation to each unit is the lesser of the following, plus any reapportioned allowances:

- (1) Initial allocation under subsection (b).
- (2) A cap on emissions pursuant to a federally enforceable judicial consent decree.
- (3) Maximum historic emissions, as determined under section 4(c) of this rule.
- (4) No allowances if the unit does not operate as described in subsection (c).

(e) All allowances remaining after the application of subsections (b) and (c) are reapportioned as follows, until the entire existing unit budget is allocated, with each resulting allocation value rounded to the nearest whole allowance:

- (1) Remaining allowances are reapportioned to the remaining units whose initial allocation is not limited by subsection (d)(2) through (d)(4).
- (2) Allocations are apportioned on the same basis as under subsection (b).
- (3) These steps are repeated with each revised allocation distribution until the entire existing unit budget is allocated.

(f) By March 1 of each year existing unit allocations are made under this section, the department shall make the allowance allocations available for public review. The department may adjust each determination if appropriate or necessary to ensure that it is in accordance with this rule.

(Air Pollution Control Division; [326 IAC 24-5-5](#))

### **[326 IAC 24-5-6](#) New unit allocations**

Authority: [IC 13-14-8](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#)

Affected: [IC 13-15](#); [IC 13-17](#)

Sec. 6. (a) For each control period in 2021 and thereafter, the department shall allocate to all new units, a total amount of allowances in the new unit set-aside as listed in section 2(b) of this rule.

(b) The department must determine for each new unit an allocation of allowances for the later of the following control periods and for each subsequent control period:

- (1) The control period starting in 2021.
- (2) The first full control period after the unit commences commercial operation.
- (3) For a unit misallocated allowances under 40 CFR 97.411(c)\*, the first control period in which the unit operates in Indiana after operating in another jurisdiction and the unit must not already have been allocated one (1) or more allowances.
- (4) For a unit that received no allowances as described in section 5(c) of this rule that resumes operation, the first full control period after the unit resumes operation.

(c) The allocation to each unit for each control period must be an amount equal to the unit's total tons of NO<sub>x</sub> emissions during the immediately preceding control period. The department may adjust the allocations as follows:

- (1) If the amount of allowances in the new unit set-aside for a control period is greater than or equal to the sum of the preceding control period emissions, then the department shall allocate the amount equal to the unit's total tons of NO<sub>x</sub> emissions during the immediately preceding control period.
- (2) If the amount of allowances in the new unit set-aside for a control period is less than the sum of the preceding control period emissions, then the department shall allocate to each unit an amount equal to the unit's tons of NO<sub>x</sub> emissions during the immediately preceding control period for the unit, multiplied by the amount of allowances in the new unit set-aside for the control period, divided by the sum of the preceding control period emissions, rounded to the nearest whole allowance.

(d) The department shall notify each CSAPR designated representative of the amount of allowances allocated under this section.

\*These documents are incorporated by reference. Copies may be obtained from the Government Publishing Office, [www.gpo.gov](http://www.gpo.gov), or are available for review at the Indiana Department of Environmental Management, Office of Legal Counsel, Indiana Government Center North, 100 North Senate Avenue, Thirteenth Floor, Indianapolis, IN 46204.

(Air Pollution Control Division; [326 IAC 24-5-6](#))



**326 IAC 24-5-7 Unallocated new unit set-aside allowances**

Authority: [IC 13-14-8](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#)

Affected: [IC 13-15](#); [IC 13-17](#)

Sec. 7. (a) Unallocated allowances remaining in the new unit set-aside after completion of the procedures of section 6 of this rule, for a control period, shall be allocated first to new units as follows:

(1) For each unit that commenced commercial operation during the period starting January 1 of the year before the year of the control period and ending November 30 of the year of the control period, the department shall determine the positive difference, if any, between the unit's emissions during the control period and the amount of allowances awarded for the unit for the control period.

(2) The department shall determine the sum of the positive differences determined under subdivision (1) and then proceed as follows:

(A) If the amount of unallocated allowances remaining in the new unit set-aside for a control period is greater than or equal to the sum determined under this subdivision, then the department must allocate the amount of allowances determined for each unit under subdivision (1).

(B) If the amount of unallocated allowances remaining in the new unit set-aside for a control period is less than the sum under this subdivision, then the department must allocate to each unit under the following formula, rounded to the nearest whole allowance:

$$\text{Unit allowance} = ((E-A) \times \text{RNUSA}) / \text{Sum}$$

Where: Unit allowance is the total allowances allocated to the unit.  
E is the unit's emissions during the control period.  
A is the amount of allowances awarded for the unit for the control period.  
RNUSA is the remaining allowances in the new unit set-aside.  
Sum is the total amount of allocations under this subdivision.

(b) After completion of the procedures under subsection (a) for a control period, if any unallocated allowances remain in the new unit set-aside for the control period, the department shall allocate to each existing unit that was allocated allowances under section 5 of this rule, an amount of allowances under the following formula:

$$\text{Unit allowance} = (\text{UA} \times \text{EUA}) / \text{EUB}$$

Where: Unit allowance is the total allowances allocated to the unit.  
UA is the total amount of the remaining unallocated allowances in the new unit set-aside.  
EUA is the unit's allocation under section 5 of this rule for the control period.  
EUB is the existing unit budget, as listed in section 2(c) of this rule, for the control period, rounded to the nearest whole allowance.

(c) The department shall notify each CSAPR designated representative of the amount of allowances allocated under this section.

(Air Pollution Control Division; [326 IAC 24-5-7](#))

SECTION 2. [326 IAC 24-6](#) IS ADDED TO READ AS FOLLOWS:

**Rule 6. Nitrogen Oxides (NO<sub>x</sub>) Ozone Season Group 2 Trading Program**

**326 IAC 24-6-1 Applicability and incorporation by reference**

Authority: [IC 13-14-8](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#)

Affected: [IC 13-11-2](#); [IC 13-15](#); [IC 13-17](#)

Sec. 1. (a) This rule applies to CSAPR NO<sub>x</sub> Ozone Season Group 2 units and CSAPR NO<sub>x</sub> Ozone Season Group 2 sources as specified in 40 CFR 97.804\*, as added by 81 FR 74627, that are located in Indiana.

(b) The definitions in [IC 13-11-2](#), [326 IAC 1](#), and 40 CFR 97.802\*, as added by 81 FR 74622, apply throughout this rule. For purposes of this rule, the definition for a term provided in 40 CFR 97.802 controls in any conflict between [326 IAC 1](#) and 40 CFR 97.802.

(c) The following federal provisions are incorporated by reference:

(1) The CSAPR NO<sub>x</sub> Ozone Season Group 2 Trading Program at:

- (A) 40 CFR 97.802\* through 40 CFR 97.808\*, as added by 81 FR 74622;
- (B) 40 CFR 97.811(c)(1)\* through 40 CFR 97.811(c)(4)\*, as added by 81 FR 74633;
- (C) 40 CFR 97.811(c)(5)(i)\* and 40 CFR 97.811(c)(5)(ii), as added by 81 FR 74633;
- (D) 40 CFR 97.813\* through 40 CFR 97.820\*, as added by 81 FR 74637;
- (E) 40 CFR 97.821(d)\* through 40 CFR 97.411(g)\*, as added by 81 FR 74642;
- (F) 40 CFR 97.821(i)\*, as added by 81 FR 74642;
- (G) 40 CFR 97.821(k)\* and 40 CFR 97.821(l)\*, as added by 81 FR 74643; and
- (H) 40 CFR 97.822\* through 40 CFR 97.835\*, as added by 81 FR 74643.

(2) The Indiana NO<sub>x</sub> ozone season group 2 variability limit at 40 CFR 97.810(b)(5)\*, as added by 81 FR 74631.

(d) The following are substitutions to 40 CFR as incorporated into this rule:

(1) As it appears in 40 CFR 97.802 and 40 CFR 97.806(c)(2)(iii), substitute the following:

- (A) Delete "§ 97.810(a)" and insert "40 CFR 97.810(a)(5)(i)".
- (B) Delete "§ 97.810(b)" and insert "40 CFR 97.810(b)(5)".

(2) As it appears in 40 CFR 97.802, delete "§ § 97.811 and 97.812" and insert "[326 IAC 24-6-5](#), [326 IAC 24-6-6](#), and [326 IAC 24-6-7](#)".

(3) As it appears in 40 CFR 97.806(b)(2), delete "§ § 97.811(a)(2) and (b) 97.812" and insert "[326 IAC 24-6-5](#), [326 IAC 24-6-6](#), and [326 IAC 24-6-7](#)".

\*These documents are incorporated by reference. Copies may be obtained from the Government Publishing Office, [www.gpo.gov](http://www.gpo.gov), or are available for review at the Indiana Department of Environmental Management, Office of Legal Counsel, Indiana Government Center North, 100 North Senate Avenue, Thirteenth Floor, Indianapolis, IN 46204.

(Air Pollution Control Division; [326 IAC 24-6-1](#))

#### [326 IAC 24-6-2](#) CSAPR NO<sub>x</sub> ozone season group 2 trading budget

Authority: [IC 13-14-8](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#)

Affected: [IC 13-15](#); [IC 13-17](#)

Sec. 2. (a) The total Indiana CSAPR NO<sub>x</sub> ozone season group 2 trading budget, in 40 CFR 97.810(a)(5)(i)\*, as added by 81 FR 74631, is available for each control period starting in 2021 and thereafter. This does not include any tons in a variability limit.

(b) For each control period in 2021 and thereafter, a new unit set-aside is established for Indiana equal to the allowances at 40 CFR 97.810(a)(5)(ii)\*, as added by 81 FR 74631, and any additional allowances at 40 CFR 97.811(c)(5)\*, as added by 81 FR 74633.

(c) The existing unit budget is the difference between the total trading budget at 40 CFR 97.810(a)(5)(i)\*, as added by 81 FR 74631, and the new unit set-aside at 40 CFR 97.810(a)(5)(ii)\*, as added by 81 FR 74631.

\*These documents are incorporated by reference. Copies may be obtained from the Government Publishing Office, [www.gpo.gov](http://www.gpo.gov), or are available for review at the Indiana Department of Environmental Management, Office of Legal Counsel, Indiana Government Center North, 100 North Senate Avenue, Thirteenth Floor, Indianapolis, IN 46204.



(Air Pollution Control Division; [326 IAC 24-6-2](#))

**[326 IAC 24-6-3](#) CSAPR NO<sub>x</sub> ozone season group 2 allocation timing**

Authority: [IC 13-14-8](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#)

Affected: [IC 13-15](#); [IC 13-17](#)

Sec. 3. The department shall allocate CSAPR NO<sub>x</sub> ozone season group 2 allowances according to the following schedule:

- (1) By June 1, 2018, the department shall submit to U.S. EPA the existing unit allowance allocations, in accordance with section 5 of this rule, for control periods in 2021 and 2022.
- (2) By June 1, 2019, and June 1 every two (2) years thereafter, the department shall submit to U.S. EPA the existing unit allowance allocations in accordance with section 5 of this rule, for control periods four (4) and five (5) years after the applicable deadline for submission under this subdivision.
- (3) By July 1, 2021, and July 1 of each year thereafter, the department shall submit to U.S. EPA the new unit set-aside allowance allocations, in accordance with section 6 of this rule, for the control period in the year of the applicable deadline for submission under this subdivision.
- (4) By February 6, 2022, and February 6 of each year thereafter, the department shall submit to U.S. EPA the new unit set-aside allowance allocations in accordance with section 7 of this rule, for the control period in the previous year of the applicable deadline for submission under this subdivision.

(Air Pollution Control Division; [326 IAC 24-6-3](#))

**[326 IAC 24-6-4](#) Baseline heat input and historic emissions**

Authority: [IC 13-14-8](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#)

Affected: [IC 13-15](#); [IC 13-17](#)

Sec. 4. (a) For purposes of this rule, an existing unit is any unit with a baseline heat input, in million British thermal units (MMBtu). Baseline heat input is determined as follows:

- (1) If a unit commenced commercial operation prior to January 1, 2016, then the following applies:
  - (A) For an allowance allocation for control periods in 2021 and 2022 the baseline heat input is the average of the three (3) highest control period heat inputs in 2008 through 2015.
  - (B) For an allowance allocation for control periods in 2023 and 2024 and every two (2) control periods thereafter, the baseline heat input is the average of the three (3) highest, non-zero control period heat inputs in the eight (8) years before the allocation is calculated.
  - (C) If a unit has only two (2) non-zero heat inputs during the eight (8) years before the allocation is calculated, the baseline heat input is the average of those two (2) non-zero control period heat inputs.
  - (D) If a unit has only one (1) non-zero heat input during the eight (8) years before the allocation is calculated, the baseline heat input is that one (1) non-zero control period heat input.
- (2) If a unit commenced commercial operation on or after January 1, 2016, and operates each control period during a period of three (3) or more consecutive calendar years, for an allowance allocation under section 3(2) of this rule, the baseline heat input is the average of the three (3) highest, non-zero control period heat input values for the years before the calculation of the allocation, not to exceed eight (8) control periods.

(b) For purposes of this rule, new units either:

- (1) commenced operation on or after January 1, 2016, and do not have a baseline heat input; or
- (2) did not receive allowances as determined under section 5(c) of this rule, and operated during the control period immediately preceding the year of allocation.

(c) The maximum historic emission cap is the maximum NO<sub>x</sub> emissions, in tons, that occurred during any control period of the historic emissions period. The historic emissions period is an eight (8) year history for each unit ending with the most recent year of the eight (8) years used for the determination of the heat input under subsection (a).

(d) A unit's control period heat input and a unit's total tons of NO<sub>x</sub> emissions during a control period

under this section must be determined in accordance with 40 CFR 75\*.

\*This document is incorporated by reference. Copies may be obtained from the Government Publishing Office, [www.gpo.gov](http://www.gpo.gov), or are available for review at the Indiana Department of Environmental Management, Office of Legal Counsel, Indiana Government Center North, 100 North Senate Avenue, Thirteenth Floor, Indianapolis, IN 46204.

(Air Pollution Control Division; [326 IAC 24-6-4](#))

#### [326 IAC 24-6-5](#) Existing unit allocations and adjustments

Authority: [IC 13-14-8](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#)

Affected: [IC 13-15](#); [IC 13-17](#)

Sec. 5. (a) For each control period in 2021 and thereafter, the department shall allocate to all existing units that have a baseline heat input the total amount of allowances as listed in section 2(c) of this rule in accordance with this section.

(b) The initial allocation for an existing unit is the existing unit budget multiplied by the ratio of the baseline heat input of the unit to the total amount of baseline heat inputs of all CSAPR NO<sub>x</sub> ozone season group 2 units, rounded to the nearest whole allowance.

(c) A unit receives no allowances if the unit does not operate during the control period in two (2) consecutive years as follows:

(1) Allowances must not be allocated to the unit for the control period in the fifth year after the first year of not operating and in each year after the fifth year.

(2) If the unit resumes operation, the department must allocate allowances to the unit in accordance with the standards for new unit allocations until the unit has a baseline heat input.

(d) The allocation to each unit is the lesser of the following, plus any reapportioned allowances:

(1) Initial allocation under subsection (b).

(2) A cap on emissions pursuant to a federally enforceable judicial consent decree.

(3) Maximum historic emissions, as determined under section 4(c) of this rule.

(4) No allowances if the unit does not operate as described in subsection (c).

(e) All allowances remaining after the application of subsections (b) and (c) are reapportioned as follows, until the entire existing unit budget is allocated, with each resulting allocation value rounded to the nearest whole allowance:

(1) Remaining allowances are reapportioned to the remaining units whose initial allocation is not limited by subsection (d)(2) through (d)(4).

(2) Allocations are apportioned on the same basis as under subsection (b).

(3) These steps are repeated with each revised allocation distribution until the entire existing unit budget is allocated.

(f) By March 1 of each year existing unit allocations are made under this section, the department shall make the allowance allocations available for public review. The department may adjust each determination if appropriate or necessary to ensure that it is in accordance with this rule.

(Air Pollution Control Division; [326 IAC 24-6-5](#))

#### [326 IAC 24-6-6](#) New unit allocations

Authority: [IC 13-14-8](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#)

Affected: [IC 13-15](#); [IC 13-17](#)

Sec. 6. (a) For each control period in 2021 and thereafter, the department shall allocate to all new units, a total amount of allowances in the new unit set-aside as listed in section 2(b) of this rule.

(b) The department must determine for each new unit an allocation of allowances for the later of the following control periods and for each subsequent control period:

- (1) The control period starting in 2021.
- (2) The first full control period after the unit commences commercial operation.
- (3) For a unit misallocated allowances under 40 CFR 97.811(c)\*, as added by 81 FR 74633, the first control period in which the unit operates in Indiana after operating in another jurisdiction and the unit must not already have been allocated one (1) or more allowances.
- (4) For a unit that received no allowances as described in section 5(c) of this rule that resumes operation, the first full control period after the unit resumes operation.

(c) The allocation to each unit for each control period must be an amount equal to the unit's total tons of NO<sub>x</sub> emissions during the immediately preceding control period. The department may adjust the allocations as follows:

- (1) If the amount of allowances in the new unit set-aside for a control period is greater than or equal to the sum of the preceding control period emissions, then the department shall allocate the amount equal to the unit's total tons of NO<sub>x</sub> emissions during the immediately preceding control period.
- (2) If the amount of allowances in the new unit set-aside for a control period is less than the sum of the preceding control period emissions, then the department shall allocate to each unit an amount equal to the unit's tons of NO<sub>x</sub> emissions during the immediately preceding control period for the unit, multiplied by the amount of allowances in the new unit set-aside for the control period, divided by the sum of the preceding control period emissions, rounded to the nearest whole allowance.

(d) The department shall notify each CSAPR designated representative of the amount of allowances allocated under this section.

\*These documents are incorporated by reference. Copies may be obtained from the Government Publishing Office, [www.gpo.gov](http://www.gpo.gov), or are available for review at the Indiana Department of Environmental Management, Office of Legal Counsel, Indiana Government Center North, 100 North Senate Avenue, Thirteenth Floor, Indianapolis, IN 46204.

(Air Pollution Control Division; [326 IAC 24-6-6](#))

### [326 IAC 24-6-7](#) Unallocated new unit set-aside allowances

Authority: [IC 13-14-8](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#)

Affected: [IC 13-15](#); [IC 13-17](#)

Sec. 7. (a) Unallocated allowances remaining in the new unit set-aside after completion of the procedures of section 6 of this rule, for a control period, shall be allocated first to new units as follows:

- (1) For each unit that commenced commercial operation during the period starting January 1 of the year before the year of the control period and ending November 30 of the year of the control period, the department shall determine the positive difference, if any, between the unit's emissions during the control period and the amount of allowances awarded for the unit for the control period.
- (2) The department shall determine the sum of the positive differences determined under subdivision (1) and then proceed as follows:
  - (A) If the amount of unallocated allowances remaining in the new unit set-aside for a control period is greater than or equal to the sum determined under this subdivision, then the department must allocate the amount of allowances determined for each unit under subdivision (1).
  - (B) If the amount of unallocated allowances remaining in the new unit set-aside for a control period is less than the sum under this subdivision, then the department must allocate to each unit under the following formula, rounded to the nearest whole allowance:

$$\text{Unit Allowance} = ((E-A) \times \text{RNUSA}) / \text{Sum}$$

Where: Unit allowance is the total allowances allocated to the unit.  
 E is the unit's emissions during the control period.  
 A is the amount of allowances awarded for the unit for the control period.  
 RNUSA is the remaining allowances in the new unit set-aside.

Sum is the total amount of allocations under this subdivision.

(b) After completion of the procedures under subsection (a) for a control period, if any unallocated allowances remain in the new unit set-aside for the control period, the department shall allocate to each existing unit that was allocated allowances under section 5 of this rule, an amount of allowances under the following formula:

$$\text{Unit allowance} = (\text{UA} \times \text{EUA}) / \text{EUB}$$

Where: Unit allowance is the total allowances allocated to the unit.  
 UA is the total amount of the remaining unallocated allowances in the new unit set-aside.  
 EUA is the unit's allocation under section 5 of this rule for the control period.  
 EUB is the existing unit budget, as listed in section 2(c) of this rule, for the control period, rounded to the nearest whole allowance.

(c) The department shall notify each CSAPR designated representative of the amount of allowances allocated under this section.

(Air Pollution Control Division; [326 IAC 24-6-7](#))

SECTION 3. [326 IAC 24-7](#) IS ADDED TO READ AS FOLLOWS:

#### Rule 7. Sulfur Dioxide (SO<sub>2</sub>) Group 1 Trading Program

##### [326 IAC 24-7-1](#) Applicability and incorporation by reference

Authority: [IC 13-14-8](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#)

Affected: [IC 13-11-2](#); [IC 13-15](#); [IC 13-17](#)

Sec. 1. (a) This rule applies to CSAPR SO<sub>2</sub> Group 1 units and CSAPR SO<sub>2</sub> Group 1 sources as specified in 40 CFR 97.604\*, as amended by 81 FR 74616, that are located in Indiana.

(b) The definitions in [IC 13-11-2](#), [326 IAC 1](#), and 40 CFR 97.602\*, as amended by 81 FR 74615, apply throughout this rule. For purposes of this rule, the definition for a term provided in 40 CFR 97.602 controls in any conflict between [326 IAC 1](#) and 40 CFR 97.602.

(c) The following federal provisions are incorporated by reference:

(1) The CSAPR SO<sub>2</sub> Group 1 Trading Program at:

- (A) 40 CFR 97.602\* through 40 CFR 97.608\*, as amended by 81 FR 74615;
- (B) 40 CFR 97.611(c)(1)\* through 40 CFR 97.611(c)(4)\*, as amended by 81 FR 74616;
- (C) 40 CFR 97.611(c)(5)(i)\* and 40 CFR 97.611(c)(5)(ii)\*, as amended by 81 FR 74616;
- (D) 40 CFR 97.613\* through 40 CFR 97.620\*, as amended by 81 FR 74617;
- (E) 40 CFR 97.621(e)\* through 40 CFR 97.621(g)\*, as amended by 81 FR 74617;
- (F) 40 CFR 97.621(i)\*, as amended by 81 FR 74617;
- (G) 40 CFR 97.621(k)\* and 40 CFR 97.621(l)\*, as amended by 81 FR 74617; and
- (H) 40 CFR 97.622\* through 40 CFR 97.635\*, as amended by 81 FR 74617.

(2) The Indiana CSAPR SO<sub>2</sub> group 1 trading budget variability limit at 40 CFR 97.610(b)(2)\*, as amended by 81 FR 74616.

(d) The following are substitutions to 40 CFR as incorporated into this rule:

(1) As it appears in 40 CFR 97.602 and 40 CFR 97.606(c)(2)(iii) substitute the following:

- (A) Delete "§ 97.610(a)" and insert "40 CFR 97.610(a)(2)(iv)".
- (B) Delete "§ 97.610(b)" and insert "40 CFR 97.610(b)(2)".

(2) As it appears in 40 CFR 97.602, delete "§ 97.611 and 97.612" and insert "[326 IAC 24-7-5](#), [326 IAC 24-7-6](#), and [326 IAC 24-7-7](#)".

(3) As is appears in 40 CFR 97.606(b)(2), delete "§ 97.611(a)(2) and 97.611(b)" and insert "[326 IAC 24-7-5](#), [326 IAC 24-7-6](#), and [326 IAC 24-7-7](#)".

\*These documents are incorporated by reference. Copies may be obtained from the Government Publishing Office, [www.gpo.gov](http://www.gpo.gov), or are available for review at the Indiana Department of Environmental Management, Office of Legal Counsel, Indiana Government Center North, 100 North Senate Avenue, Thirteenth Floor, Indianapolis, IN 46204.

(Air Pollution Control Division; [326 IAC 24-7-1](#))

#### [326 IAC 24-7-2](#) CSAPR SO<sub>2</sub> group 1 trading budget

Authority: [IC 13-14-8](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#)

Affected: [IC 13-15](#); [IC 13-17](#)

Sec. 2. (a) The Indiana CSAPR SO<sub>2</sub> group 1 allowance trading budget, at 40 CFR 97.610(a)(2)(iv)\*, as amended by 81 FR 74616, is available for each control period starting in 2021 and thereafter. This does not include any tons in a variability limit.

(b) For each control period in 2021 and thereafter, a new unit set-aside is established for Indiana equal to the allowances at 40 CFR 97.610(a)(2)(v)\*, as amended by 81 FR 74616 and any additional allowances at 40 CFR 97.611(c)(5)\*, as amended by 81 FR 74616.

(c) The existing unit budget is the difference between the total trading budget at 40 CFR 97.610(a)(2)(iv)\*, as amended by 81 FR 74616, and the new unit set-aside at 40 CFR 97.610(a)(2)(v)\*, as amended by 81 FR 74616.

\*These documents are incorporated by reference. Copies may be obtained from the Government Publishing Office, [www.gpo.gov](http://www.gpo.gov), or are available for review at the Indiana Department of Environmental Management, Office of Legal Counsel, Indiana Government Center North, 100 North Senate Avenue, Thirteenth Floor, Indianapolis, IN 46204.

(Air Pollution Control Division; [326 IAC 24-7-2](#))

#### [326 IAC 24-7-3](#) CSAPR SO<sub>2</sub> group 1 allocation timing

Authority: [IC 13-14-8](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#)

Affected: [IC 13-15](#); [IC 13-17](#)

Sec. 3. The department shall allocate CSAPR SO<sub>2</sub> group 1 allowances according to the following schedule:

- (1) By June 1, 2018, the department shall submit to U.S. EPA the existing unit allowance allocations, in accordance with section 5 of this rule, for control periods in 2021 and 2022.
- (2) By June 1, 2019, and June 1 every two (2) years thereafter, the department shall submit to U.S. EPA the existing unit allowance allocations in accordance with section 5 of this rule, for control periods four (4) and five (5) years after the applicable deadline for submission under this subdivision.
- (3) By July 1, 2021, and July 1 of each year thereafter, the department shall submit to U.S. EPA the new unit set-aside allowance allocations, in accordance with section 6 of this rule, for the control period in the year of the applicable deadline for submission under this subdivision.
- (4) By February 6, 2022, and February 6 of each year thereafter, the department shall submit to U.S. EPA the new unit set-aside allowance allocations in accordance with section 7 of this rule, for the control period in the previous year of the applicable deadline for submission under this subdivision.

(Air Pollution Control Division; [326 IAC 24-7-3](#))

#### [326 IAC 24-7-4](#) Baseline heat input and historic emissions

Authority: [IC 13-14-8](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#)

Affected: [IC 13-15](#); [IC 13-17](#)

**Sec. 4. (a)** For purposes of this rule, an existing unit is any unit with a baseline heat input, in million British thermal units (MMBtu). Baseline heat input is determined as follows:

(1) If a unit commenced commercial operation prior to January 1, 2016, then the following applies:

(A) For an allowance allocation for control periods in 2021 and 2022, the baseline heat input is the average of the three (3) highest control period heat inputs in 2008 through 2015.

(B) For an allowance allocation for control periods in 2023 and 2024 and every two (2) control periods thereafter, the baseline heat input is the average of the three (3) highest, non-zero control period heat inputs in the eight (8) years before the allocation is calculated.

(C) If a unit has only two (2) non-zero heat inputs during the eight (8) years before the allocation is calculated, the baseline heat input is the average of those two (2) non-zero control period heat inputs.

(D) If a unit has only one (1) non-zero heat input during the eight (8) years before the allocation is calculated, the baseline heat input is that one (1) non-zero control period heat input.

(2) If a unit commenced commercial operation on or after January 1, 2016, and operates each control period during a period of three (3) or more consecutive calendar years, for an allowance allocation under section 3(2) of this rule, the baseline heat input is the average of the three (3) highest, non-zero control period heat input values for the years before the calculation of the allocation, not to exceed eight (8) control periods.

(b) For purposes of this rule, new units either:

(1) commenced operation on or after January 1, 2016, and do not have a baseline heat input; or

(2) did not receive allowances as determined under section 5(c) of this rule, and operated during the control period immediately preceding the year of allocation.

(c) The maximum historic emission cap is the maximum SO<sub>2</sub> emissions, in tons, that occurred during any control period of the historic emissions period. The historic emissions period is an eight (8) year history for each unit ending with the most recent year of the eight (8) years used for the determination of the heat input under subsection (a).

(d) A unit's control period heat input and a unit's total tons of SO<sub>2</sub> emissions during a control period under this section must be determined in accordance with 40 CFR 75\*.

\*This document is incorporated by reference. Copies may be obtained from the Government Publishing Office, [www.gpo.gov](http://www.gpo.gov), or are available for review at the Indiana Department of Environmental Management, Office of Legal Counsel, Indiana Government Center North, 100 North Senate Avenue, Thirteenth Floor, Indianapolis, IN 46204.

(Air Pollution Control Division; [326 IAC 24-7-4](#))

#### **[326 IAC 24-7-5](#) Existing unit allocations and adjustments**

Authority: [IC 13-14-8](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#)

Affected: [IC 13-15](#); [IC 13-17](#)

**Sec. 5. (a)** For each control period in 2021 and thereafter, the department shall allocate to all existing units that have a baseline heat input the total amount of allowances as listed in section 2(c) of this rule in accordance with this section.

(b) The initial allocation for an existing unit is the existing unit budget multiplied by the ratio of the baseline heat input of the unit to the total amount of baseline heat inputs of all CSAPR SO<sub>2</sub> group 1 units, rounded to the nearest whole allowance.

(c) A unit receives no allowances if the unit does not operate during the control period in two (2) consecutive years as follows:

(1) Allowances must not be allocated to the unit for the control period in the fifth year after the first year of not operating and in each year after the fifth year.

(2) If the unit resumes operation, the department must allocate allowances to the unit in accordance with the standards for new unit allocations until the unit has a baseline heat input.



(d) The allocation to each unit is the lesser of the following, plus any reapportioned allowances:

- (1) Initial allocation under subsection (b).
- (2) A cap on emissions pursuant to a federally enforceable judicial consent decree.
- (3) Maximum historic emissions, as determined under section 4(c) of this rule.
- (4) No allowances if the unit does not operate as described in subsection (c).

(e) All allowances remaining after the application of subsections (b) and (c) are reapportioned as follows, until the entire existing unit budget is allocated, with each resulting allocation value rounded to the nearest whole allowance:

- (1) Remaining allowances are reapportioned to the remaining units whose initial allocation is not limited by subsection (d)(2) through (d)(4).
- (2) Allocations are apportioned on the same basis as under subsection (b).
- (3) These steps are repeated with each revised allocation distribution until the entire existing unit budget is allocated.

(f) By March 1 of each year existing unit allocations are made under this section, the department shall make the allowance allocations available for public review. The department may adjust each determination if appropriate or necessary to ensure that it is in accordance with this rule.

(Air Pollution Control Division; [326 IAC 24-7-5](#))

#### [326 IAC 24-7-6](#) New unit allocations

Authority: [IC 13-14-8](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#)

Affected: [IC 13-15](#); [IC 13-17](#)

Sec. 6. (a) For each control period in 2021 and thereafter, the department shall allocate to all new units, a total amount of allowances in the new unit set-aside as listed in section 2(b) of this rule.

(b) The department must determine for each new unit an allocation of allowances for the later of the following control periods and for each subsequent control period:

- (1) The control period starting in 2021.
- (2) The first full control period after the unit commences commercial operation.
- (3) For a unit misallocated allowances under 40 CFR 97.611(c)\*, the first control period in which the unit operates in Indiana after operating in another jurisdiction and the unit must not already have been allocated one (1) or more allowances.
- (4) For a unit that received no allowances as described in section 5(c) of this rule that resumes operation, the first full control period after the unit resumes operation.

(c) The allocation to each unit for each control period must be an amount equal to the unit's total tons of SO<sub>2</sub> emissions during the immediately preceding control period. The department may adjust the allocations as follows:

- (1) If the amount of allowances in the new unit set-aside for a control period is greater than or equal to the sum of the preceding control period emissions, then the department shall allocate the amount equal to the unit's total tons of SO<sub>2</sub> emissions during the immediately preceding control period.
- (2) If the amount of allowances in the new unit set-aside for a control period is less than the sum of the preceding control period emissions, then the department shall allocate to each unit an amount equal to the unit's tons of SO<sub>2</sub> emissions during the immediately preceding control period for the unit, multiplied by the amount of allowances in the new unit set-aside for the control period, divided by the sum of the preceding control period emissions, rounded to the nearest whole allowance.

(d) The department shall notify each CSAPR designated representative of the amount of allowances allocated under this section.

\*These documents are incorporated by reference. Copies may be obtained from the Government Publishing Office, [www.gpo.gov](http://www.gpo.gov), or are available for review at the Indiana Department of Environmental Management, Office of Legal Counsel, Indiana Government Center North, 100 North Senate Avenue,

Thirteenth Floor, Indianapolis, IN 46204.

(Air Pollution Control Division; [326 IAC 24-7-6](#))

**[326 IAC 24-7-7](#) Unallocated new unit set-aside allowances**

Authority: [IC 13-14-8](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#)

Affected: [IC 13-15](#); [IC 13-17](#)

Sec. 7. (a) Unallocated allowances remaining in the new unit set-aside after completion of the procedures of section 6 of this rule, for a control period, shall be allocated first to new units as follows:

(1) For each unit that commenced commercial operation during the period starting January 1 of the year before the year of the control period and ending November 30 of the year of the control period, the department shall determine the positive difference, if any, between the unit's emissions during the control period and the amount of allowances awarded for the unit for the control period.

(2) The department shall determine the sum of the positive differences determined under subdivision (1) and then proceed as follows:

(A) If the amount of unallocated allowances remaining in the new unit set-aside for a control period is greater than or equal to the sum determined under this subdivision, then the department must allocate the amount of allowances determined for each unit under subdivision (1).

(B) If the amount of unallocated allowances remaining in the new unit set-aside for a control period is less than the sum under this subdivision, then the department must allocate to each unit under the following formula, rounded to the nearest whole allowance:

$$\text{Unit Allowance} = ((E-A) \times \text{RNUSA}) / \text{Sum}$$

Where: Unit allowance is the total allowances allocated to the unit.

E is the unit's emissions during the control period.

A is the amount of allowances awarded for the unit for the control period.

RNUSA is the remaining allowances in the new unit set-aside.

Sum is the total amount of allocations under this subdivision.

(b) After completion of the procedures under subsection (a) for a control period, if any unallocated allowances remain in the new unit set-aside for the control period, the department shall allocate to each existing unit that was allocated allowances under section 5 of this rule, an amount of allowances under the following formula:

$$\text{Unit allowance} = (\text{UA} \times \text{EUA}) / \text{EUB}$$

Where: Unit allowance is the total allowances allocated to the unit.

UA is the total amount of the remaining unallocated allowances in the new unit set-aside.

EUA is the unit's allocation under section 5 of this rule for the control period.

EUB is the existing unit budget, as listed in section 2(c) of this rule, for the control period, rounded to the nearest whole allowance.

(c) The department shall notify each CSAPR designated representative of the amount of allowances allocated under this section.

(Air Pollution Control Division; [326 IAC 24-7-7](#))

SECTION 4. [326 IAC 26-1-5](#) IS AMENDED TO READ AS FOLLOWS:

**[326 IAC 26-1-5](#) Cross-State Air Pollution Rule (CSAPR) participation by electric generating units**

Authority: [IC 13-14-8](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#)

Affected: [IC 13-15](#); [IC 13-17](#)

Sec. 5. Participation **by electric generating units** in the ~~CAIR cap and trade program~~ shall satisfy **Cross-State Air Pollution Rule (CSAPR) trading programs under [326 IAC 24](#) or 40 CFR 97** satisfies the sulfur dioxide (SO<sub>2</sub>) and oxides of nitrogen (NO<sub>x</sub>) requirements of this rule.

(Air Pollution Control Division; [326 IAC 26-1-5](#); filed Jan 23, 2008, 1:37 p.m.: [20080220-IR-326060208FRA](#))

SECTION 5. THE FOLLOWING ARE REPEALED: [326 IAC 24-1](#); [326 IAC 24-2](#); [326 IAC 24-3](#).

[Notice of Public Hearing](#)

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